

OPTION #1

Optional Class C (5-yr) & D (3-yr) Determinate Terms With Parole Eligibility

CJJP Policy Simulation:

Description: The current maximum term on the optional determinate Class D felony sentence would be reduced to 3 years. The optional determinate term will become mandatory, eliminating indeterminate sentencing of these offenders. A new mandatory Class C determinate term would be created, with a maximum term of 5 years. Judges may sentence a defendant to a term of years between one year and the maximum determinate term. The determinate term would apply only to non-persons, non-OWI offenses. Parole eligibility would begin after half of the maximum term adjusted for earned time is served.

Analysis Assumptions: The law would become effective July 1, 2003. A lag effect of six months is assumed between the effective date and the date that offenders sentenced under these provisions would enter the prison system. Numbers of offenders sentenced under this proposal and average length of stay were estimated based on FY2002 prison admission data for Class D determinate terms. Estimated average length of stay for Class D terms is 12 months; estimated average length of stay for Class C terms is 15 months, based on extrapolation of current average lengths of stay in comparison with maximum terms. About 17% of such admissions were estimated to have been otherwise probation-bound, based on 50% of the Class D determinate offenders who had no prior jail or prison terms.

Please note that these assumptions are based on a small number of Class D determinate terms, and that these terms were handed down in a limited geographic area within Iowa. Judges not utilizing this option currently may be more likely to impose the maximum term provided under the proposal (rather than a lower term), because they are accustomed to doing so under indeterminate sentencing.

Impact on Midyear Prison Populations:

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| FY2004 (First Year) | No impact on number of inmates |
| FY2005 (Second Year) | -825 |
| FY2008 (Fifth Year) | -926 |
| FY2011 (Eighth Year) | -983 |

AN ACT MAKING CHANGES TO CRIMINAL SENTENCES
Optional Class D (3-yr) & Class C (5-yr) Determinate Terms With Parole Eligibility

Section 1. NEW SECTION. 702.6A NON-PERSON CRIME. A crime that is not committed against a person is any felonious crime not involving death, injury, threats, coercion, intimidation, or duress, or any attempt involving the same, or any felonious crime or attempt to commit any crime involving a minor.

Section 2. NEW SECTION. 702.6A CRIME AGAINST A PERSON. A crime against a person is any felonious crime involving death, injury, threats, coercion, intimidation, or duress, or any attempt involving the same, or any felonious crime or attempt to commit any crime involving a minor.

Section 3. Section [901.5](#), Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 13. In addition to any determinate sentence or other penalty imposed against the defendant under section 902.3A, the court shall sentence the defendant to an additional indeterminate term of years if required under section 902.3A, subsection 2.

Sec. 4. NEW SECTION. 902.3A DETERMINATE SENTENCING AND
ADDITIONAL TERM OF YEARS FOR CLASS "D" NON-PERSON FELONS.

1. Notwithstanding section 902.3, when a conviction for a class "D" non-person felony is entered against a person, the court, in imposing a sentence of confinement pursuant to section 901.5, shall commit the person into the custody of the director of the Iowa department of corrections for a determinate term of not more than three years if mitigating circumstances exist.

a. The determinate term of confinement shall not be for less than one year or more than three years and if a mandatory minimum sentence is required by law, the determinate term of confinement imposed under this section shall not be more than three years of active confinement.

b. Earned time shall be calculated as provided in chapter 903A. However, earned time accrued and not forfeited shall not apply to cause the person to become eligible for parole until the person has served one-half of the determinate term of confinement.

c. A person on parole or work release under a determinate term of confinement imposed under this section shall be subject to the terms and conditions of parole or work release as set out in chapter 906. Violations of parole or work release shall be

subject to the procedures set out in chapters 905 and 908 or rules adopted under those chapters including return to active confinement for a portion of the remaining determinate term.

d. This section does not apply to an offense classified as a forcible felony, a felony under section 321J.2, felonies in chapters 707, 708, 708A, 709, 710, 711, 712, 713, 723, 723A, 724, 726, 728, and 729, a person sentenced as a habitual offender, felonies listed in section 901A.1, felonies listed in section 902.12, or a felony committed by a person on parole or work release, or while in the custody of the director of the department of corrections.

2. When the person is sentenced and committed into the custody of the director of the department of corrections pursuant to subsection 1, the person shall also be sentenced to community supervision under chapter 901B for an indeterminate sentence not to exceed one year. The sentence of an additional term shall be consecutive to the determinate term of confinement.

a. The sentence of an additional indeterminate term of community supervision under chapter 901B shall commence immediately upon the expiration of the determinate term of confinement and the person shall be assigned to the judicial district department of correctional services by the department of corrections. The district department shall place a person assigned to it under this paragraph in a level of sanction and supervision which is appropriate to the person pursuant to the district's intermediate criminal sanctions program operated under chapter 901B.

b. The district department may transfer a person along the continuum of the intermediate criminal sanctions program operated pursuant to chapter 901B as necessary and appropriate during the period the person is assigned to the district department. If the person violates the terms and conditions of the placement, the district may transfer the person to a more restrictive placement as provided in the continuum of sanctions in the judicial district.

c. A person serving an additional indeterminate term under community supervision may be discharged from that sentence in the same manner as a person serving probation may be discharged under section 907.9, provided the offender has discharged any concurrent or consecutive sentence. Discharge from an additional indeterminate term of years terminates the person's sentence of an additional indeterminate term of years.

d. A person serving a concurrent or consecutive indeterminate term of years shall receive credit for any time served after discharge from the preceding determinate term of confinement against the person's concurrent or consecutive indeterminate sentence.

e. Notwithstanding subsection 2, if a person is paroled at least six months prior to the expiration of the person's determinate term of confinement, the person shall not serve an additional indeterminate term of years.

Sec. 5. NEW SECTION. 902.3A DETERMINATE SENTENCING AND
ADDITIONAL TERM OF YEARS FOR CLASS "C" NON-PERSON FELONS.

2. Notwithstanding section 902.3, when a conviction for a class "C" non-person felony is entered against a person, the court, in imposing a sentence of confinement pursuant to section 901.5, shall commit the person into the custody of the director of the Iowa department of corrections for a determinate term of not more than five years if mitigating circumstances exist.

a. The determinate term of confinement shall not be for less than one year or more than five years and if a mandatory minimum sentence is required by law, the determinate term of confinement imposed under this section shall not be more than five years of active confinement.

b. Earned time shall be calculated as provided in chapter 903A. However, earned time accrued and not forfeited shall not apply to cause the person to become eligible for parole until the person has served one-half of the determinate term of confinement.

c. A person on parole or work release under a determinate term of confinement imposed under this section shall be subject to the terms and conditions of parole or work release as set out in chapter 906. Violations of work release shall be subject to the procedures set out in chapters 905 and 908 or rules adopted under those chapters including return to active confinement for a portion of the remaining determinate term.

d. This section does not apply to an offense classified as a forcible felony, a felony under section 321J.2, felonies in chapters 707, 708, 708A, 709, 710, 711, 712, 713, 723, 723A, 724, 726, 728, and 729, a person sentenced as a habitual offender, felonies listed in section 901A.1, felonies listed in section 902.12, or a felony committed by a person on parole or work release, or while in the custody of the director of the department of corrections.

2. When the person is sentenced and committed into the custody of the director of the department of corrections pursuant to subsection 1, the person shall also be sentenced to community supervision under chapter 901B for an indeterminate sentence not to exceed two years. The sentence of an additional term shall be consecutive to the determinate term of confinement.

a. The sentence of an additional indeterminate term of community supervision under chapter 901B shall commence immediately upon the expiration of the determinate term of confinement and the person shall be assigned to the judicial

district department of correctional services by the department of corrections. The district department shall place a person assigned to it under this paragraph in a level of sanction and supervision which is appropriate to the person pursuant to the district's intermediate criminal sanctions program operated under chapter 901B.

- b. The district department may transfer a person along the continuum of the intermediate criminal sanctions program operated pursuant to chapter 901B as necessary and appropriate during the period the person is assigned to the district department. If the person violates the terms and conditions of the placement, the district may transfer the person to a more restrictive placement as provided in the continuum of sanctions in the judicial district.
- c. A person serving an additional indeterminate term under community supervision may be discharged from that sentence in the same manner as a person serving probation may be discharged under section 907.9, provided the offender has discharged any concurrent or consecutive sentences. Discharge from an additional indeterminate term of years terminates the person's sentence of an additional indeterminate term of years.
- d. A person serving a concurrent or consecutive indeterminate sentence shall receive credit for any time served after discharge from the preceding determinate term of confinement against the person's sentence of the concurrent or consecutive indeterminate sentence.
- e. Notwithstanding subsection 2, if a person is paroled at least six months prior to the expiration of the person's determinate term of confinement, the person shall not serve an additional indeterminate term of years.